

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of Texas

FILED

January 04, 2024

KAREN MITCHELL
CLERK, U.S. DISTRICT COURT

United States of America
v.

Case No.

2:24-MJ-02

KEITH FAGIANA

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 3, 2024 in the county of Potter in the
Northern District of Texas, the defendant(s) violated:

Code Section

Offense Description

Title 49, United States Code,
Section 46504

Interference with a Flight Crew

This criminal complaint is based on these facts:

See attached affidavit in support of complaint.

Continued on the attached sheet.

Complainant's signature

Scott Hendricks, FBI SA

Printed name and title

Attested to in accordance with the requirements of Fed. R. Crim. P 4.1 by telephone

Date: 01/04/2024

Judge's signature

City and state: Amarillo, Texas

Lee Ann Reno, U.S. Magistrate Judge

Printed name and title

Case No. 2:24-MJ-02

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Special Agent, T. Scott Hendricks, being duly sworn under oath, do hereby depose and state:

1. I am a Special Agent with the FBI, and I have been so employed since 2002. I am currently assigned to the Amarillo Resident office of the FBI in Amarillo, Texas. As part of my official duties, I have conducted and participated in investigations relating to crimes of violence. As part of my duties and responsibilities as an FBI Special Agent, I am authorized to investigate crimes in the special aircraft jurisdiction of the United States, as well as federal crimes that occur on the Rick Husband Amarillo International Airport property.

2. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, law enforcement officers, and witnesses. Because this affidavit is submitted for the limited purpose of establishing probable cause to believe a crime has been committed and that the defendant committed it, I have not included each and every fact known to me in this affidavit.

Title 49, United States Code, Section 46504

3. Title 49, United States Code, Section 46504 provides that an individual on an aircraft in the special aircraft jurisdiction of the United States, who, by assaulting or intimidating a flight crew member or flight attendant of an aircraft, interferes with the performance of the duties of the member or attendant to perform those duties, or attempts or conspires to do such an act, shall be fined under Title 18, imprisoned for not more than

20 years, or both. “Special aircraft jurisdiction” requires that the offense occur while the aircraft is “in flight,” as defined in 49 U.S.C. § 46501(1).

4. There are three elements to the foregoing offense: (1) the Defendant was on an aircraft in flight in the United States; (2) the Defendant knowingly assaulted or intimidated a flight-crew member or flight attendant of the aircraft; and (3) the assault or intimidation interfered with or lessened the ability of the crew member or flight attendant to perform his or her duties. An aircraft is “in flight” from the moment all external doors are closed after the passengers have boarded through the moment when one external door is opened to allow passengers to leave the aircraft. For purposes of this crime, an aircraft does not have to be airborne to be in flight. An “assault” may be committed without actually touching or hurting another person. An assault occurs when a person intentionally attempts or threatens to hurt someone else and has an apparent and immediate ability to carry out the threat, such as by pointing or brandishing a dangerous weapon or device. To “intimidate” someone is to intentionally say or do something that would cause a person of ordinary sensibilities to fear bodily harm. It’s also to say or do something to make another person fearful or make that person refrain from doing something that the person would otherwise do — or do something that the person would otherwise not do. ELEVENTH CIRCUIT PATTERN JURY INSTRUCTION (CRIMINAL) O118 (2020).

Facts Establishing Probable Cause

5. On January 3, 2024, at approximately 1:50PM, the Amarillo Airport Police Department contacted the FBI in Amarillo and reported that American Airlines flight

1497 en route from Dallas Fort Worth Airport to Bozeman International Airport declared a level two threat aboard the aircraft and the pilot was diverting the plane to the Rick Husband Amarillo International Airport. Your affiant, Amarillo Police Department Officers, and Amarillo Airport Police Department Officers responded to the gate when American Airlines flight 1497 arrived.

6. Upon arriving at the gate, uniformed police officers entered the plane and encountered Keith Edward Fagiana, who was in flex cuffs. Officers escorted Fagiana to the Amarillo Airport Police Office in the Amarillo Airport. Fagiana complained to officers the flex cuffs were hurting him. Officers proceeded to change out the flex cuff restraints with steel handcuffs. While changing out handcuffs, Fagiana kicked one of the Amarillo Airport Police Officers in the groin area and spit on escorting officers. Fagiana was placed in steel handcuffs and was secured to a bench. Officers placed a spitting mask on Fagiana's face.

7. Your affiant interviewed a flight attendant who was identified as a victim of the physical assault while the aircraft was in flight. The flight attendant reported that another passenger complained Fagiana was violently kicking their chair. The flight attendant asked Fagiana to not kick the passenger's chair. Fagiana then yelled expletives at the flight attendant and punched the flight attendant in the stomach. The flight attendant then took a defensive position and Fagiana got up and punched the flight attendant three more times.

8. The flight attendant and other passengers then physically restrained Fagiana on the deck of the aircraft. Once under physical control, the flight attendant retrieved

onboard flex cuff restraints and placed them on Fagiana. The attendant cleared row 8 and Fagiana was placed in seat 8F next to the window. Fagiana was then buckled into his seat.

9. Another flight attendant contacted the pilots in the cockpit and reported the incident to them. The flight crew declared a level two threat due to a Fagiana physically assaulting a flight attendant. The pilot diverted the aircraft to the Amarillo International Airport, which was not a regularly scheduled stop for American Airlines flight 1497.

10. Fagiana was interviewed a short time after being removed from the aircraft. Fagiana did not remember anything that happened on the flight. Fagiana admitted he had drunk some "Captain Morgans" at different bars in Las Vegas before the flight. Fagiana admitted fighting with police officers after being removed from aircraft because he didn't want to be arrested.

11. Passengers on the aircraft completed written statements about what they saw and heard. Witnesses reported seeing Fagiana punch the flight attendant multiple times and other passengers had to assist the flight attendant to subdue and restrain Fagiana.

12. Based upon my review of the incident, I have probable cause to believe that the assault or intimidation interfered with or lessened the ability of the flight attendant to perform his or her duties because the flight attendant had to defend himself from Fagiana's attack and then restrain Fagiana until law enforcement could take custody of him.

13. Based on the information provided above, your affiant believes that probable cause exists that Keith Fagiana violated Title 49, United States Code, Section 46504 that is, Interference with Flight Crew Members and Attendants, when knowingly interfered with the performance of the duties of flight crew members by punching a flight attendant and causing the flight to make diversion to the Amarillo International Airport.



Scott Hendricks
FBI, Special Agent


Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone this 4th day of January 2024.

_____ at _____ Amarillo, Texas _____
Date City and State

Lee Ann Reno, U.S. Magistrate Judge
Name and Title of Judicial Officer



Signature of Judicial Officer



Joshua Frausto
Assistant United States Attorney